

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KONINKLJKE PHILIPS ELECTRONICS
NV, et al.,

Plaintiffs,

CASE NO. C03-1322JLR

V.

ORDER

DEFIBTECH LLC, et al.,

Defendants.

The court has received Defendant Defibtech, L.L.C.'s Motion to Preclude Plaintiff Philips from Asserting Patent Claims Previously Withdrawn By Philips. (Dkt. # 82).

Despite the motion’s formidable title, the underlying dispute is simple. Plaintiffs Koninklijke Philips Electronics N.V. and Philips Electronics North America Corporation (“Philips”) inadvertently omitted three patent claims from a listing of claims it intended to assert in this action. Before the omission, Defendant Defibtech, L.L.C. (“Defibtech”) had advance notice of those claims and ample opportunity to conduct discovery on them. When Philips discovered their inadvertent omission, they offered Defibtech additional time to conduct any discovery with respect to those claims. Defibtech declined.

The court finds that Philips' error was inadvertent, that Defibtech suffered no prejudice, and that even if there were prejudice, Defibtech could have cured it by accepting Philips' offer for additional discovery. The court therefore DENIES

ORDER - 1

1 Defibtech's motion. (Dkt. # 82). Defibtech may conduct additional discovery and file
2 supplemental expert reports, if necessary, to address the three claims that Philips omitted.

3 Dated this 9th day of May, 2005.

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7 JAMES L. ROBART
8 United States District Judge
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